

Amendment No. 1 to HB1342

Vaughan
Signature of Sponsor

AMEND Senate Bill No. 650*

House Bill No. 1342

by deleting all language after the caption and substituting:

WHEREAS, Tennessee, as part of its economic development policy, has the right to set terms and conditions in connection with the awarding of economic development incentives; and

WHEREAS, Tennessee, as part of its economic development policy, seeks to play an integral role in the formulation of economic opportunities, conditions of grants, and general management of compliance with such awards for monies; and

WHEREAS, Tennessee will oftentimes, as part of awarding economic development incentives, oversee compliance with land use regulations, including management of the subdivision of property; offer and provide water and wastewater services; require fire protection systems and mechanical systems for buildings and structures; approve capital grants; and ensure such monies are approved by the State Building Commission; and

WHEREAS, Tennessee will oftentimes, as part of awarding economic development incentives, also require a private business to hire a certain number of new full-time employees, require a specific amount of company investment, and ensure workers obtain certain skills and knowledge; and

WHEREAS, Tennessee, as part of its economic development policy, has a vested interest in seeking to advance and preserve its own interest in projects receiving economic development incentives as a financier of projects contributing to the State's overall economic health; and

WHEREAS, it is the intent of the General Assembly, as part of its economic development policy, that whenever State funds or benefits are sought by a private business,

that such benefits are conditioned on the private business agreeing not to waive its employees' right to a secret ballot election when recognizing a labor organization as a bargaining unit or requiring subcontractors to waive their employees' right to a secret ballot election; and

WHEREAS, it is the intent of the General Assembly that whenever State funds or benefits are provided or awarded to a private business, the private business, or subcontractors working on a project receiving State funds or benefits, shall not voluntarily disclose employee personal contact information to a labor organization without an employee's prior consent; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 7, is amended by adding the following as a new section:

4-3-729.

(a) This section is known and may be cited as the "Employee Free Choice and Privacy Act."

(b) As used in this section:

(1) "Economic development incentive" means a FastTrack job training grant and economic development grant authorized under this part or capital grant authorized under chapter 15 of this title for economic development purposes provided to an employer to attract or retain the employer's physical presence in this state;

(2) "Employee" means an individual who performs services for an employer for wages that are subject to withholding requirements under 26 U.S.C. § 3402;

(3) "Employer" means a business entity that voluntarily pursues economic development incentives authorized under this title or enters into an agreement with this state for the purpose of receiving those incentives;

(4) "Labor organization" has the same meaning as defined in 29 U.S.C. § 152;

(5) "Personal contact information" means an employee's home address, home or personal cell phone number, or personal email address;

(6) "Secret ballot election" means a process conducted by the national labor relations board (NLRB) in which an employee casts a secret ballot for or against labor organization representation; and

(7) "Subcontractor" means an individual or entity that has contracted with the employer to perform work or provide services.

(c)

(1) In order to be eligible for an economic development incentive, an employer shall not:

(A) Grant recognition rights for employees solely and exclusively on the basis of signed union authorization cards if the selection of a bargaining representative may instead be conducted through a secret ballot election conducted by the national labor relations board (NLRB);

(B) Voluntarily disclose an employee's personal contact information to a labor organization, or third party acting on behalf of a labor organization, without the employee's prior written consent, unless otherwise required by state or federal law; or

(C) Require a subcontractor performing work for or providing services to the employer to engage in activities prohibited in subdivision (c)(1)(A) or (c)(1)(B).

(2) The prohibitions set out in subdivision (c)(1) apply to any work or service for the employer on the project for which the economic incentive is provided.

(d) A person or entity may report, based upon a reasonable belief, a suspected violation of subdivision (c)(1) to the department of labor and workforce development. Upon receiving a report pursuant to this subsection (d), the department of labor and workforce development shall investigate whether a violation has occurred. If, upon conclusion of the investigation, the department of labor and workforce development finds that an employer has violated subdivision (c)(1), then the department shall provide written notice to the department of economic and community development.

(e) If the department of economic and community development receives written notice pursuant to subsection (d), then the department of economic and community development shall deliver written notice to the employer informing the employer of the results of the investigation and to the office of the attorney general and reporter to initiate proceedings to recover any funds pursuant to § 4-3-731(f).

SECTION 2. Tennessee Code Annotated, Section 4-3-731, is amended by adding the following as a new subsection:

(f) Notwithstanding another law to the contrary, prior to contracting to award an economic development incentive, as defined in § 4-3-739(b), the department of economic and community development must execute a separate agreement with the recipient of the incentive that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the recipient benefitting from such money, grants, funds, or other incentives fails to comply with § 4-3-739(c).

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to contracts executed, renewed, or otherwise modified on or after the effective date of this act.